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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/765,098	01/18/2001	Michael Clary	PURRING-PA-2	8219

7590 07/22/2002

Royal W. Craig
Law Offices of Royal W. Craig
Suite 153
10 NORTH CALVERT STREET
Baltimore, MD 21202

EXAMINER

VU, STEPHEN A

ART UNIT

PAPER NUMBER

3636

DATE MAILED: 07/22/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/765,098

Applicant(s)

Clary et al

Examiner

Stephen Vu

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on May 13, 2002
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6 is/are pending in the application.
- 4a) Of the above, claim(s) 3-5 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 2, and 6 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☒ The proposed drawing correction filed on May 13, 2002 is: a) ☒ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
*See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____ 6) ☐ Other:

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DETAILED ACTION

Drawings

1. The corrected or substitute drawings were received on May 13, 2002. These drawings are Figures 1-5 and 12.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claim 1 stands rejected under 35 U.S.C. 102(b) as being anticipated by Geschwender'214.

Geschwender'214 shows an articulating chair (1) comprising a knockdown frame having a pair of separate U-shaped frame portions (5,7), wherein one is a seat frame portion and the other is a backrest frame portion. A pair of generally L-shaped connectors (9) are adapted to fit with the ends of the frame portions to form a rigid L-shaped frame. A removable cover (11) is disclosed to fit over the frame. The cover has a top panel section sewn against a bottom panel section, a side panel section sewn, and a cushion enclosed in between the sections.

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Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

6. Claims 2 and 6 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Geschwender'214 in view of Zavaglia.

Geschwender'214 discloses the claimed invention except for the U-shaped frame portions to have ends that are chamfered.

Zavaglia teaches the inventive concept of a joint having beveled portions (38',40') and grooves on each of the joint elements (12',14') for locking interconnection. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the U-shaped frame portions and L-shaped connectors of Geschwender'214's chair to have beveled portions and grooves as taught by Zavaglia in order to provide an effective locking

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interconnection and prevent any accidental separation between the U-shaped frame portions and L-shaped connectors.

With claim 6, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have the U-shaped frame portions be Zinc plated, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for its intended use. *In re Leshin*, 125 USPQ 416.

Response to Arguments

7. Applicant's arguments filed May 13, 2002 have been fully considered but they are not persuasive.

Remarks

The examiner has reviewed and considered the applicant's comments in the Amendment, filed on May 13, 2002. It's the examiner's position that the following claims stand rejected. Claim 1 stands rejected under 35 U.S.C. 102(b) as being anticipated by Geschwender'214. Claims 2 and 6 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Geschwender'214 in view of Zavaglia. The applicant has argued that the prior art of Geschwender'214 does not anticipate claim 1. The examiner disagrees with this argument. Geschwender'214 shows an articulating chair (1) comprising a knockdown frame having a pair of separate U-shaped frame portions (5,7), wherein one is a seat frame portion and the other is a backrest frame portion. A pair of generally L-shaped connectors (9) are adapted to fit with the

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ends of the frame portions to form a rigid L-shaped frame. A removable cover (11) is disclosed to fit over the frame. The cover has a top panel section sewn against a bottom panel section, a side panel section sewn, and a cushion enclosed in between the sections.

Conclusion

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CAR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CAR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

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9. Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Stephen Vu, whose telephone number is (703) 308-1378.



Stephen Vu
Patent Examiner
July 15, 2002



Peter M. Cuomo
Supervisory Patent Examiner
Technology Center 3600